

# United States District Court, Northern District of Illinois

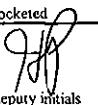
Name of Assigned Judge or Magistrate Judge	James B. Zagel	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	04 C 4466	DATE	10/21/2004
CASE TITLE	GENERAL BINDING vs. THE BOARD DUDES		

**MOTION:** [In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

**DOCKET ENTRY:**

- 1)  Filed motion of [ use listing in "Motion" box above.]
- 2)  Brief in support of motion due \_\_\_\_\_.
- 3)  Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- 4)  Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- 5)  Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- 6)  Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- 7)  Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- 8)  [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- 9)  This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
  FRCP4(m)     Local Rule 41.1     FRCP41(a)(1)     FRCP41(a)(2).
- (10)  [Other docket entry] Motion (5-1) to transfer is denied. Enter memorandum opinion and order.

(11)  [For further detail see order attached to the original minute order.]

<input checked="" type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input checked="" type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	U.S. DISTRICT COURT CO. L. 11 FL 7-03 Date/time received in central Clerk's Office	number of notices <b>OCT 28 2004</b>	Document Number <b>JH</b>	
		date docketed	 <b>12</b>	
		docketing deputy initials		
		date mailed notice		
		mailing deputy initials		
		DW		courtroom deputy's initials

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

GENERAL BINDING CORPORATION,

Plaintiff,

v.

THE BOARD DUDES, INC.,

Defendant.

No. 04 C 4466  
Judge James B. Zagel

DOCKETED  
OCT 28 2004

MEMORANDUM OPINION AND ORDER

Defendant The Board Dudes, Inc. ("BDI") is a mid-sized company currently operating out of Corona, California, a city outside of Los Angeles. BDI manufactures and distributes cork boards, dry-erase boards, grease boards, and foam boards, some of which are decorated with images of sports equipment such as footballs, basketballs, and soccer balls. Plaintiff General Binding Corporation ("GBC") is a Delaware corporation headquartered in Northbrook, Illinois. In 1997, GBC acquired Quartet Manufacturing Company ("Quartet"), which also manufactures and distributes decorated board products. On May 10, 2004, GBC sent a cease and desist letter to BDI, alleging copyright infringement for BDI's sports motif boards. BDI researched GBC's claims and ultimately filed suit in the Central District of California seeking a declaration of non-infringement of GBC's copyright and trade dress rights. Three weeks later, GBC filed the instant suit for copyright infringement here, in the Northern District of Illinois.

BDI now requests that I transfer this case to the Central District of California for reasons of convenience. A transfer under 28 U.S.C. § 1404(a) is warranted between two proper venues if the moving party can show, by reference to particular circumstances, that the transferee forum is more convenient. *Black & Decker Corp. v. Vermont Am. Corp.*, 915 F. Supp. 933, 936 (N.D. Ill.

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1995). "Weighing of factors for and against transfer necessarily involves a large degree of subtlety and latitude, and, therefore, is committed to the sound discretion of the trial judge." *Id.* In weighing the conveniences of the parties, I may consider the location of the parties and potential witnesses, the location in which the cause of action arose, and the likelihood of financial hardship to the parties. *Koos, Inc. v. Performance Indus., Inc.*, 747 F. Supp. 487, 490 (N.D. Ill. 1990).

Firstly, the location of the parties and the witnesses appears to be equally split between California and Illinois. BDI is headquartered in California and GBC is headquartered in Illinois. The differing headquarter locations has also lead to an approximately equal split in the location of potential witnesses. BDI has indicated it will call at least three witnesses who reside in California and GBC has indicated that it will call approximately five witnesses from Illinois.

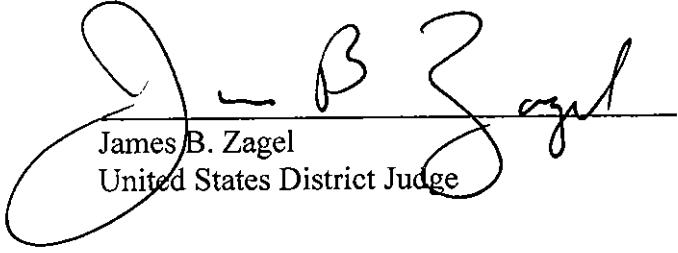
Secondly, the location in which the cause of action arose is also spread across the two jurisdictions, as BDI's allegedly infringing boards are sold in both California and Illinois.

Finally, the difference in financial hardship between BDI and GBC is insufficient to warrant a transfer on financial grounds alone. Since the companies are located in different districts, one party must bear the extra costs adjudicating a case in a foreign forum. Just because BDI is the smaller of the two companies does not mean that it will get to override the copyright holder's choice of forum. BDI is a mid-sized company with approximately \$15M in revenues, and it has chosen to sell its board products across the United States. Since none of the factors weighs strongly in favor of a transfer to the Central District of California, I find that such a transfer is not warranted in this case.

Additionally, BDI argues that a transfer to the Central District of California would serve the interest of justice because the case could be more quickly resolved in that forum. While it is true that the time from filing to trial is slightly longer in the Northern District of Illinois, it is also true that the civil docket as a whole is disposed of faster in the Northern District of Illinois. Statistically speaking, it would be difficult to predict which district could provide a faster resolution to this suit. However, given the current state of my own docket, I am quite certain that I will be able to preside over this matter in a timely and judicious manner.

For these reasons, BDI's motion to transfer is DENIED.

ENTER:

  
James B. Zagel  
United States District Judge

DATE: 21 Oct 2004